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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/588,037	06/05/2000	J. Gregory Stout	A-68146/MAK/LM	8559
30636	7590	01/17/2006		
FAY KAPLUN & MARCIN, LLP 150 BROADWAY, SUITE 702 NEW YORK, NY 10038				
			EXAMINER KOPPIKAR, VIVEK D	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/588,037	Applicant(s) STOUT, J. GREGORY	
	Examiner Vivek D. Koppikar	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Application

1. This office action is in response to the amendment filed on April 13, 2005. Claims 30-49 pending in this application and have been addressed in this office action.

Claim Rejections - 35 USC § 102

2. Claims 30-49 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Number 6,055,573 to Gardenswartz.

As per previously presented claims 31-45 and 47-49, the details of the rejection for these claims were set forth in the Office Action dated December 3, 2004 and are herein incorporated in this Office Action.

Claims 30 and 46 are the only claims that have been amended and therefore these claims will be addressed.

As per amended claims 30 and 46, Gardenswartz discloses a method comprising:
identifying a consumer at a first merchant location where the consumer presents an instrument during a processing of a first transaction at the first merchant location, wherein the consumer is identified with a unique identification (Col. 5, Ln. 44-60). The consumer identification is received through a data capture device (a first computer (10); Col. 5, Ln. 30-43 and Figure 1). Gardenswartz teaches the steps of presenting an offer to the consumer based on information from the first transaction (Col. 10, Ln. 23-34), receiving an indication of acceptance of the offer from the consumer (Col. 16, Ln. 36-55), associating the indication of acceptance with the unique identification of the consumer (Col. 16, Ln. 56-65), identifying the consumer at a second merchant location where the consumer presents the instrument during the processing of a second

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transaction tool (Col. 17, Ln. 3-44 and Col. 19, Ln. 17-48) and retrieving the offer based on the identification of the consumer at the second merchant location, where the offer is applied to the second transaction (Col. 17, Ln. 3-44 and Col. 19, Ln. 17-48).

The unique consumer identification record is stored in a data farm device (purchase history database (8); Col. 5, Ln. 36-37 and Figure 1)). The offer in Gardenswartz is displayed on an offer display device (a first computer (10); Ln. 30-42 and Figure 1). In Gardenswartz, there is a further data capture device (various computers linked to the Internet (20); Col. 5, Ln. 30-43).

Response to Arguments

3. The 35 USC 101 rejections set forth in the Office Action dated December 3, 2004 has been withdrawn in view of the amended claims.
4. Applicant's arguments filed on April 13, 2005 have been fully considered but they are not persuasive. Applicants argue that the Gardenswartz patent does not disclose or suggest "receiving an indication of acceptance of the offer from the consumer at the first merchant location." However, the examiner argues that Gardenswartz does in fact show this feature. In Gardenswartz when the consumer visits a specified retail location such as a grocery store and redeems the reward (Col. 16, Ln. 36-55) there is an indication of acceptance of the reward because the customer has visited the store to accept the reward the indication of acceptance in Gardenswartz takes place at a first merchant location (e.g. a grocery store). In addition the awards are presented to the customer at a merchant location (e.g. grocery store) (Col. 16, Ln. 36-55).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquire concerning this communication or earlier communications from the examiner should be directed to Vivek Koppikar, whose telephone number is (571) 272-5109. The examiner can normally be reached from Monday to Friday between 8 AM and 4:30 PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (571) 272-6776. The fax telephone number for this group is (703) 305-7687 (for official communications including After Final communications labeled "Box AF").

Sincerely,



Vivek Koppikar



JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER